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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/023,913	12/18/2001	Takayuki Hayashi	4041K-000076	4806
27572	7590	12/08/2003	EXAMINER	
HARNESS, DICKEY & PIERCE, P.L.C.			CIRIC, LJILJANA V	
P.O. BOX 828			ART UNIT	
BLOOMFIELD HILLS, MI 48303			PAPER NUMBER	

3753

DATE MAILED: 12/08/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
10/023,913

Applicant(s)
Hayashi et al.

Examiner
Ljiljana V. Ciric *LVC*

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Aug 13, 2003
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above, claim(s) 2-7, 9, 12, 13, 16-18, and 24-30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 8, 10, 11, 14, 15, 19-23, and 31-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on Dec 18, 2001 is/are a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 3 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Applicant's election of the third species, readable on claims 1, 8, 10, 11, 14, 15, 19 through 23, and 31 through 33 in Paper No. 6 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Note, however, that applicant's assertion that claims 1 and 33 are generic is not persuasive since, while a generic claim must read on each of the species, the fact that a claim merely does so read is not conclusive that it is generic. For example, a generic claim cannot include limitations which are *not* present in *each* of the added species claims. See MPEP § 806.04(d).

Claims 2 through 7, 9, 12, 13, 16 through 18, and 24 through 30 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to non-elected species, there being no allowable generic or linking claim at this time. Election was made **without** traverse in Paper No. 6.

Specification

The abstract of the disclosure is objected to because (a) the acronym EGR is not defined in the abstract and (b) the abstract does not avoid using words which can be inferred (i.e., "is disclosed"). Note that the first sentence of an abstract may be an incomplete sentence. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1, 8, 10, 11, 14, 15, 19 through 23, and 31 through 33 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The claims are generally narrative and indefinite, failing to conform with current U.S. practice. They appear to be a literal translation into English from a foreign document, are written in a run-on fashion, and are replete with grammatical and idiomatic errors.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

As best can be understood in view of the indefiniteness of the claims, claims 1, 8, 10, 11, 14, 15, 19 through 23, and 31 through 33 are rejected under 35 U.S.C. 102(b) as being anticipated by *Karbach et al.*

Karbach et al. discloses an exhaust gas heat exchanges essentially as claimed, including, for example: a plurality of flat passages formed by flat plates 12; a plurality of corrugated ribs or fins 19 arranged in each of the passages; and, corresponding turbulence inserts 20 with projections or louvers 21 and 22. See column 3, lines 16-67, and especially lines 56-67.

The reference thus reads on the claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. *Liu et al.*, *Hosoya et al.*, *Uchikawa et al.*, *So et al.*, *Chawla*, *Sirovich et al.*, *Neurauter*, *Haumann et al.*, *So*, and *Shibagachi et al.* each discloses a heat exchanger with flow passages including fins/ribs and/or louvers.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Ciric, whose telephone number is (703) 308-3925.

While she works a flexible schedule that varies from day to day from week to week, Examiner Ciric may generally be reached at the Office during the work week between the hours of 10 a.m. and 6 p.m. ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dave Scherbel, can be reached on (703) 308-1272.

The NEW central official fax phone number is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0861.

LVC/ts

November 3, 2003

LVCiric 12/5/03
LJILJANA V. CIRIC

PRIMARY EXAMINER

ART UNIT 3753